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ADOPTION OF THE REPORT OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN ON ITS THIRTEENTH SESSION

Draft Report

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Addendum

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

## Introduction

1. At its thirteenth session, the Committee considered the reports submitted by ... States parties under article 18 of the Convention: four initial reports, five second periodic reports, two combined initial and second periodic reports, two combined second and third periodic reports and one third periodic report. The Committee also considered ... reports on an exceptional basis. For the status of the submission of reports by States parties, see annex ... to the present report.

2. The consideration of the reports of the States parties by the Committee is summarized below, with a summary of the introductory presentations by the representatives of States parties, of the observations made and the questions asked by the members of the Committee, as well as of the replies given by the representatives of the States parties present at the meetings. The summary records provide more detailed information on the reports submitted by States parties. According to rule 49 of the rules of procedure of the Committee, when the report of a State party is being examined, the representative of the State party shall be present at the meeting of the Committee and shall participate in

discussions and answer questions concerning the report. A list of the representatives of States parties to the Convention is contained in annex ... to the present report.

## Consideration of reports

### 1. Initial reports

### Netherlands

3. The Committee considered the initial report of the Netherlands (CEDAW/C/NET/1 and Add.1, 2 and 3) at its 234th and 239th meetings on 17 and 20 January 1994 (CEDAW/C/SR.234 and 239).

4. In introducing the report of the Netherlands, which consists of three parts, one concerning the European territory and two others concerning the autonomous islands of the Netherlands Antilles and Aruba, the representative of the Government underlined that the Convention was considered to be an integral part of the internationally recognized human rights instruments that formed part of the Netherlands legal and political order. The Convention was valued not only as the international legal basis for the national programme of legal reforms, but also as a source of reference for the development of policies and programmes for women's equality. She outlined important revisions of and additions to existing legislation as a result of the ratification of the Convention.

5. In referring to the country's emancipation policy, she said that the coordination and integration of the policy in all ministries and departments was hampered by the fragmented structure of administrative and political decision-making, which constituted an obstacle to the effectiveness of the national machinery. Efforts to redress that problem included the use of the Department for the Coordination of Emancipation Policy as a centre of expertise on policy-making in matters of equality. She said that part of the emancipation-support policy was the provision of financial support to NGOs (NGOs) for their activities in this field.

6. She stated further that, under the law of the Netherlands a Convention to which the country had become a State party automatically became part of the Netherlands legal order, and that national laws and regulations, which were contrary to the Convention's provisions, lost their validity. In the course of her explanation of the ratification process, she mentioned the adoption, in the very near future, of a general equal treatment act. The Government was instructed to report to Parliament on the implementation of the Convention four years after its entry into force and every subsequent four years. She cited, as an example of the functioning of the Government's emancipation support policy, the preparation for the Committee of a "shadow report" by NGOs, which counterbalanced the official report because it accurately reflected the relationship between the Government and private voluntary organizations, and an additional advisory report by the external advisory body belonging to the national machinery.

7. The representative of the Netherlands Antilles said that the Convention not only contributed to identifying some existing deficiencies in the infrastructure with regard to the implementation of some of its provisions, but it also showed constraints in the field of reporting in general, for instance as regards the collection of statistical information. She emphasized the relationship between economic activities and their effect on the status of women and confirmed her Government's intention never to let the economic status of the country justify non-compliance with the provisions of the Convention. She said that the pace of the Convention's implementation could be affected by different factors in the community.

8. She reported on a decrease in the unemployment rate among women in recent years and of a recent decision to apply the principle of equal pay for equal work to all civil servants. Consciousness-raising programmes on gender issues had been carried out. She also highlighted the role of the Bureau for Women's Affairs as the coordinating body of the national machinery in the field of women and development and said that one of the priority areas in its agenda was violence against women.

9. The representative of Aruba pointed out that the entry into force of the Convention had given a new impetus to the rights of the female population. The rapid economic development in the last five years had caused a sharp increase in the participation of women in the local labour force. While the proportion of women in the labour market increased to over 50 per cent in 1993, the corresponding changes in labour conditions and in the social field, which were necessary to facilitate the combination of professional work and family tasks, were still lagging behind. The Government of Aruba was, therefore, studying the possibility of part-time work and an increase in the number of day-care facilities.

10. The representative said that the predominant influence of economic factors on important areas of the society explained why it was that women were not particularly active in women's rights movements. However, they were pioneers in providing information about HIV/AIDS and were very active in providing information on, and preventing, child abuse. The Aruban Human Rights Committee, which was formally installed in 1993, dealt with reporting obligations and was authorized to advise the Government on human rights issues and to raise consciousness among the population about the existence of human rights in a society where a network of NGOs was non-existent. The Committee had also introduced human rights education in the general school curricula. The Convention had been translated into Papiamento and presented in a simplified version to the public.

## 2. General observations

11. Members of the Committee commended the extensive, very detailed report, which adhered to the general guidelines and also contained ample statistics and graphs, and its presentation to the Committee. They welcomed the fact that the Convention had led to revisions and additions of existing legislation and that it was ratified without reservations. They noted that human rights education was included in school curricula and that the Convention had been translated

into the native language of Aruba. Members were favourably impressed that, one year before presenting the second periodic report to the Committee, the Government would have to report to Parliament, and they commended the concern that was shown about the issue of sexual preference. Members took note that the Government gave support to women's groups. In reaction to the members' concern as to why NGOs had not been consulted in the course of the report's preparation, the representative explained that much value was attached to the distribution of power and the spread of responsibilities in the country. Since NGOs were independent, they were responsible only towards their respective constituencies; they could criticize, question or judge governmental policies, but were never responsible for them. The critical input of NGOs was sometimes a challenge to government policy, but was never an integral part of it; in this way the NGOs did not lose their independence.

12. Members made specific reference to the "shadow report" prepared by NGOs and were interested in the Government's reaction to some of the issues addressed in it. The representative said that it was not necessary to discuss all the issues raised in the shadow report, since many of the same issues would be addressed under the different articles of the Convention.

13. In reaction to the observation that the report should have been more result-oriented and should have given a more in-depth analysis of both the status of women and the policy approach taken by the Government, the representative explained that that was partly the result of the fact that contributions to the report came from different parts of the Administration and that it proved difficult to follow the Committee's guidelines without losing sight of the country's policy priorities. Committee members felt that the many efforts undertaken were not matched by an equal number of positive results.

14. Whereas some members commented on the fragmented nature of the national machinery, others said that its structure highlighted the political will of the Government to introduce the policy of women's rights into the mainstream. The representative replied that, in her country, national machinery meant a complex of various institutions responsible for dealing with different aspects of the advancement of women. The main political responsibility for the emancipation policy rested with the State Secretary of Social Affairs and Employment, and at the administrative level, its core was the Department for the Coordination of Emancipation Policy. The Emancipation Council and the Equal Opportunities Commission also belonged to the broad national machinery. In addition, the role played by other ministries and departments, local and regional authorities, trade unions and NGOs was also highlighted.

15. When members stated that women's issues should also be included in the mainstream of the activities of all of the government departments in the Netherlands Antilles, the representative said that the national machinery had started to function in 1989 and had been restructured under the competence of the Minister for General Affairs, who was presently the Prime Minister. In 1992, the Government organized a workshop on human rights and the reporting procedures for participants from different social strata, during which the Convention was also dealt with. It was important for the national machinery to receive information on gender bias from all interested parties in order to tackle the areas of concern in a structural way. Data were presently gathered

in an insufficiently uniform way and that the conduct of research in the five islands that comprised the Netherlands Antilles faced practical difficulties, related to the decentralization in several policy fields and the specific needs and characteristics of the different islands. Recognizing the need for population studies, the Bureau for Women's Affairs was working on an integral draft policy plan for women and development.

16. The representative of Aruba reported that in 1986 the Government had appointed a "focal point" for women's affairs at the Directorate of Social Affairs. Despite numerous efforts, that had not yet led to the development of an integral and interdepartmental emancipation policy.

17. Members expressed their hope that the island countries would be kept informed about the presentation of their reports to the Committee and about the Committee's reactions.

### 3. Questions related to specific articles

Article 2

18. In reply to questions about what was meant by "the working of the Constitution on equal treatment in horizontal relationships", as quoted in the report, the representative of the European territory said that "horizontal relationships" referred to relationships between citizens, as opposed to the "vertical relationship" between citizens and the State. One of the main aims of the antidiscrimination legislation was to determine in which cases citizens were obliged to respect the fundamental rights of their fellow citizens and in which they might follow their own convictions.

19. Commending the measures undertaken to combat the problem of violence against women, members asked which measures had proved to be the most successful and requested information on the amount of money spent on those measures. The representative explained that the various instruments that had been used in that respect were changes in legislation, research and care and assistance to victims. The prevention of sexual violence was a policy priority. In 1993, approximately $40 million was spent on various policy measures, such as shelters, information and innovative projects and the supporting structure. The responsibility in all such matters lay with various ministries.

20. Replying to the question as to how many women had made use of the possibility of filing recourse action in cases of discrimination, the representative said that, since its revision in 1989, the Equal Opportunities Act was used in some 40 to 50 court cases and over 500 cases were dealt with by the Equal Employment Opportunities Commission. Referring to the new Guidelines for the Public Prosecution concerning Cases of Discrimination of September 1993, the representative stated that they would be reviewed after the entry into force of the General Equal Opportunities Act.

21. More information was requested on the follow-up policy document on sexual violence against women and girls. The members of the Committee made positive

comments on the Government's interpretation of equal access of women to jobs in the military.

Article 3

22. In reply to the members' requests for copies of the social atlas on the situation of women, the representative said that it was available only in Dutch.

23. When asked who was responsible for financing support centres at national, regional and provincial levels and whether a coordinating body for the various levels would be set up, as well as whether the Government intended to institutionalize the funding for women's centres, the representative explained that each case was different. Some ministries subsidized certain projects on a permanent basis, whereas other organizations and national support centres were funded for limited periods. Often after the initial period an evaluation was conducted and it was decided on a case-by-case basis whether the subsidy should be prolonged and which party should take the responsibility. The overall responsibility for the emancipation support policy resided with the State Secretary for Emancipation Policy.

24. Regarding the summary of the position of women based on most recent statistics, as referred to in paragraph 323 of the report, the representative said that it was unfortunately not available in time for the session and would be sent to the members of the Committee immediately after publication.

25. Reacting to the disappointment expressed by members at the abolition of the Cabinet Committee for Emancipation Policy in 1991, the representative explained that that was the result of a process of political and administrative reform.

26. Members asked how it was possible that the Queen could be President of the Council of State, which was the highest advisory body in the country.

Article 4

27. Regarding a request for further information on the targets set and the timetables provided for temporary special measures, the representative stated that the goal of government policy was to impose positive action or preferential treatment by law, only as a measure of last resort. Although the Government had set targets to increase the number of women in almost every sphere of the civil service, no sanctions were applied if targets were not met.

Article 5

28. Members welcomed the reports from NGOs on the article and requested clarification of the policy for equal rights of lesbian women. The representative postponed presenting an overview of related government policies and programmes to the second periodic report.

Article 6

29. It was asked whether, within the Bureau of Women's Affairs, there were special departments to deal with the abuse of women and children. The

representative of Aruba stated that the issue remained a sensitive area of concern. According to data obtained from the Police Department, offences related to the sexual abuse of women and children constituted a considerable part of their workload and the figures were increasing. A private organization had been set up to help children who were victimized by such crimes and adults could seek legal redress or obtain help at the Bureau of Family Difficulties.

30. Doubts were expressed as to whether voluntary prostitution could be considered an entirely personal matter and a profession. Confronted with the issue of the forced prostitution of immigrant women, the representative of the European territory of the Netherlands replied that traffic in women was considered a problem of forced prostitution and that persons who were illegally in the Netherlands and had been forced into prostitution would be granted a residence permit for the period of time covering any investigation into their situation and the court session.

31. Regarding the HIV/AIDS situation in the Netherlands, it was reported that the Government had been formulating a policy on HIV/AIDS since the beginning of the epidemic, a policy which was being implemented at national, regional and municipal levels, in close cooperation between the competent health ministry and interested groups. Its key aims were prevention of the further spread of HIV, care, research and prevention of discrimination against infected persons, including AIDS-information campaigns for prostitutes.

32. Regarding a question about the reasons for the increase in sexual violence, the representative said its increase was not influenced by the fact that pornography was not prohibited. It was even possible that the availability of pornography for adults had had a restraining influence on the incidence of violence against women.

Article 7

33. Members commended the Government for distinguishing between the introduction of male suffrage and universal suffrage. They expressed surprise at the scarce references in the report to policies that promoted the advancement of women. Members asked what the reactions of the Government and of NGOs were to positive measures for promoting women to decision-making posts, and they requested further clarification on the electoral system and on the possibility of modifying lists of candidates in order to introduce more women. The representative explained that one of the main aims of the emancipation policy was to try to increase the number of women in politics and public administration. As the candidates were put forward by the autonomous political parties, and the Government had no influence in that sphere, it could only exercise indirect influence through measures such as the provision of grants to political parties for activities aimed at increasing the number of women in politics or the setting-up of special working groups dealing with the issue. The political parties themselves decided on the names and the order of candidates on the list and it depended on the importance given by the individual parties to women in politics as to whether women were elected.

34. Regarding the size of grants given to political parties, the representative said that an amount of about $2.7 million per year was given by the Government

to political parties for training, education and related activities, but only if the activities were related to matters of importance to the functioning of the democracy, and only if a party was financially in bad shape.

35. In response to the request for an analysis of the progress made and the obstacles encountered in securing parity democracy, the representative explained that, regarding the composition of elected bodies, parity between women and men was not an objective to be achieved by the Government and that parity democracy was rejected as conflicting with the basic principles of democracy itself.

36. In answer to a question about the target figure for female Queen's Commissioners, the representative said that new Queen's Commissioners were appointed by the Cabinet, according to the relative strength of the political parties in the Second Chamber of Parliament, from among "the veterans" from the field of public administration, only a few of whom were women.

37. Regarding the number of women in administrative and political positions in provincial and municipal governments, the representative said that detailed figures would be provided to the Committee in a brochure.

38. Further questions were posed as to whether the marked decline in the membership of most political parties was the same for women and for men and whether women's membership in NGOs had increased. Considering that some parties mandated that their members belonged to a particular church, it was asked whether there was a danger of religious fanaticism.

39. Regarding the number of women deputies in the Parliament of the Netherlands Antilles, their representative stated that currently 13 per cent of the members of Parliament were women, and 30 per cent of the ministerial and junior ministerial posts were occupied by women.

Article 8

40. Asked about government policies to increase the number of women in the diplomatic service, the representative of the Netherlands explained that policy measures were geared towards the recruitment and promotion of women and that preferential treatment was applied in cases where candidates had equal qualifications. In the case of couples with both partners in the diplomatic service, a number of arrangements had proved to be satisfactory to all parties concerned.

Article 10

41. Members inquired whether programmes demonstrated that a lack of education was an obstacle to gender equality.

Article 11

42. Regarding the employment rate of women, which until recently was relatively low in the Netherlands, it was said that it could be explained by historical, economic and social development, but, that thus far social scientists had not been able to give a generally accepted answer.

43. As to the question of whether the increased number of women in part-time employment was a manifestation of discrimination against women, the representative said that that was not the case. Most women sought part-time jobs themselves in order to achieve a better balance in their lives between their various duties, and men too were looking for part-time work.

44. Regarding questions concerning the number of working hours that qualified a job as part-time and the percentage of women working in double part-time work, the representative stated that, in general, that qualification was applied to jobs with less than 38 to 40 hours per week and that no statistics were available on the number of women working in double part-time jobs.

45. Considering that women were highly concentrated in a limited number of occupations, in spite of having the same educational level as men, several measures were being taken to redress the situation, such as awareness campaigns through teaching materials and the media.

46. The representative said that the requests for more information on pay differences between women and men and pay for work of equal value would be answered and supplemented by statistics in the second periodic report. Group action was not only possible in cases of unequal pay, but that that was one of the main reasons for having introduced group action. Data on female agricultural workers would also be supplied in the subsequent report.

47. Members inquired about whether sanctions existed in the event that the public employment services did not meet the set targets. Regarding women working in the private sector, the organizations and enterprises concerned carried out affirmative action for which they could receive government grants.

48. Asked about the volume of paid work at home, the representative said that official statistics differed a great deal from one set of statistics to another and that legislation to improve the situation of those doing paid work at home was in preparation.

49. Regarding questions about the position of women enrolled in private social insurance schemes, the representative said that any related problems should soon disappear in view of the forthcoming implementation of relevant legislation.

50. As regards questions asked about the former and the present taxation situation for women, and concern expressed by members about the negative effect of the so-called breadwinner's benefit in the system of personal income tax on women's participation in the labour market, the representative stated that the major tax reform in the 1980s removed de jure differential treatment of women and men. A person's decision to enter the labour market was influenced by various considerations. It was, therefore, not certain whether the system really functioned as a disincentive for all women to enter the labour market.

51. Members asked whether the Government provided child-care facilities to single and unmarried mothers, whether affirmative action was undertaken aimed at employing more women in managerial positions and what the social security situation and unemployment benefits of women as compared with men were.

52. Regarding a question as to whether women who suffered discrimination at work could refer in court to article 11 of the Convention, the representative replied that it was possible only in litigation against the State, but not against a private employer or another citizen.

53. When asked whether the Government of Aruba was planning to eliminate the provision according to which dismissal on the grounds of pregnancy was legal, the representative of Aruba stated that in the instance of female government employees no cases of dismissal on the grounds of pregnancy had ever been presented. In the private sector, dismissal required special previous approval and pregnancy was not considered to be sufficient reason to grant such permission. As the Civil Code prohibited dismissal in cases of sickness, pregnancy was considered to be included under "sickness".

Article 12

54. In reaction to the comment by members that the report was not detailed enough on the question of health, the representative of the Netherlands said that in 1994 a study would be conducted on the access of women to health services.

55. Replying to a question about the availability of special programmes for women who were already infected with HIV/AIDS, the representative said that all government programmes were accessible to both women and men, however, the Government subsidized a "Women and AIDS" office and self-help groups were trying to get women out of their isolation. Although tourism was one of the main industries in Aruba, the prevalence of AIDS infection was relatively low. The National AIDS Commission offered care and counselling, as well as control measures, including health education. Specific information and guidance was also provided to prostitutes.

56. Following a request for further information on drug addiction among women and related programmes, the representative of the Netherlands explained that the central objective of the drug policy was to reduce, as much as possible, the risks that drug abuse presented to the users, their environment and society. A pragmatic approach to the problem proved to be more effective and statistics showed that generally one woman was addicted for every three men.

57. Asked about the Government's position on euthanasia, the representative stated that she did not think it proper to link euthanasia with women's issues.

58. Referring to the question of whether there was legislation regarding artificial insemination and whether it was based on ethical or on scientific principles, the representative replied that artificial insemination was not regulated by law. However, hospitals had their codes of conduct and an individual physician with a different view on the matter could refer a woman to a colleague to undertake the procedure. It was important that women applying for that procedure not be refused on the basis of their marital status, sexual preference or lifestyle. Pregnancy at an advanced age was currently not covered by law.

59. Members of the Committee requested clarification about the abortion policy in the country. It was explained that the reason for the five-day waiting period was to safeguard responsible decision-making and to give the women the chance of reconsidering if they wished to. Abortion could be carried out only by a physician in a hospital or clinic with a permit and was allowed only in a medically or socially untenable situation in which it was deemed necessary.

Article 16

60. Turning to the question of whether any reform was under way regarding the order of names of married couples, the representative reported on a bill on equality between men and women in choosing family names that was currently being considered by Parliament.

61. Regarding the question of whether cases of rape within marriage had been dealt with in court since the entry into force of the new legislation in 1991, the representative replied that there had been some cases, most of them situations in which the spouses were divorced de facto, but not de jure. Replying to a related question, she said that, before adopting that law, a replacement of the words "through force" by "against the will" had not been considered, since it would have given a chance to question the victim about her attitudes.

62. Regarding the high number of divorces in the Netherlands Antilles, the social, cultural, economic and political reasons for that phenomenon and the question as to whether it was not also influenced by the low minimum age of marriage for women, the representative replied that currently the Civil Code was undergoing an integral revision. In spite of the low minimum age of marriage, women generally entered into marriage at the age of 18 or above. Experience showed that reasons for divorce were short periods of marriage, especially if the wife was self-supporting, domestic violence against women, unfaithfulness of the husband and the general empowerment of women.

63. Responding to an additional question relating to international technical cooperation, the representative stated that development cooperation, as regards the women in development policy had to operate within the overall development policy, which might force the Government to take a more selective approach.

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